



NRC NEWS

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No. S-11-013

Nuclear Safety: The Public's Business
Prepared Remarks for
The Honorable Gregory B. Jaczko
Chairman
U.S. Nuclear Regulatory Commission
at
Public Citizen
Washington, D.C.
May 2, 2011

Thank you for the introduction. It's an honor to have the opportunity to participate in Public Citizen's 40th Anniversary Speaker Series. I actually turned 40 years old a few months ago. Around that time, I recalled that Oliver Wendell Holmes once said, that "[t]o be 70 years young is sometimes far more cheerful and hopeful than to be 40 years old." Although the long days and late nights of the last few weeks have certainly made me feel 40 years old, I believe Public Citizen has good reason to feel 40 years young. In the halls of Congress, in courthouses across this country, and – as I can attest – in the administrative agencies of the federal government, Public Citizen has been – and I am sure, will continue to be – a strong voice for the public interest.

At the outset of my remarks, I should be clear about the nature of the NRC's regulatory role. It is the NRC's mission "to license and regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment." Our agency sets the rules by which commercial nuclear power plants operate, and nuclear materials are used in thousands of academic, medical, and industrial settings in the United States. As an independent safety regulator, it is not the NRC's role to encourage or discourage the use of nuclear power or other uses of nuclear technology. Those are decisions ultimately for the public to make through the actions of the Administration, the Congress, and private industry.

Although the safety and security focus of our mission is clear, the question of how we go about meeting our safety and security responsibilities has always been a more open question subject to vigorous debate. As former NRC Chairman Hendrie once observed, "neither the Atomic Energy Act nor the decisions of the courts shed light on the exact nature of [adequate] protection, or identify the factors or characteristics whose presence signifies proper protection of the public and whose absence denotes unreasonable risk. The discretionary authority of the

Commission in this regard is very extensive: Adequate protection means what the Commission says it means...” Throughout its history, the challenge for the Commission has been how to translate our broad mandate from Congress to ensure “adequate protection” into concrete, effective, and enforceable regulations.

In my remarks today, I will focus for the most part on how the NRC seeks to exercise that discretion – how we approach our important regulatory responsibilities in an open and transparent way in order to ensure that we reach the best decisions for nuclear safety and security. In the course of this discussion, I will touch on a few of the important substantive issues currently before the Commission, not least of which is the comprehensive safety review the Commission has launched in response to the tragic events in Japan. But I will focus to a great extent on how we go about approaching these issues because of the tremendous influence that process can exert on substantive outcomes. Process matters – that is a lesson I learned long ago in my previous life as a congressional aide in both the House of Representatives and the Senate, and one that has been reinforced throughout my time on the Commission.

Since my very first speech as a Commissioner almost seven years ago, I have emphasized that openness and transparency are indispensable ingredients for effective regulatory decision making. By providing the public and our stakeholders meaningful opportunities to participate in important agency activities, the NRC benefits from the information and perspectives that they bring to the table. Through an open and constructive dialogue with them, we can address recognized challenges more effectively, identify other issues that may warrant greater attention, and ultimately reach better informed decisions. At the NRC, we never forget that nuclear regulation is the public’s business and that we have the responsibility to conduct our work openly and transparently. And by doing so, we have the opportunity to build public confidence in the agency and our decisions by shining a light on our greatest strengths – the dedication and diligence of the NRC staff.

Safety Culture

Over the past year, there are a number of areas where the agency has taken significant positive steps to promote openness and transparency in the way we conduct the public’s business. One area that I want to draw focus to concerns the development of the agency’s Safety Culture Policy Statement. This is an important issue where we were able to achieve a breakthrough because of our concerted efforts to build and sustain a dialogue with a broad range of interested stakeholders.

As way of background, safety culture refers to an individual or organization’s commitment to safety as an overriding priority over other considerations. This is an issue with a long history in the nuclear field, and one that has received increased attention in recent years for explaining why accidents occur across a number of other industries. Its importance grows out of the fact that operators will always have the primary day-to-day responsibility for ensuring the safety of their facilities. That is why the NRC as a regulator must remain keenly aware of the factors that can undermine an individual or organization’s commitment to safety. For example, a focus on production or profit over safety. Work environments that are not conducive to raising safety concerns. A lack of willingness by management to receive and respond to concerns, or to

correct known or recurring problems. In the nuclear field, we have seen – most significantly with the Chernobyl disaster – the unfortunate consequences that can result from these sorts of failures in safety culture.

For reasons I won't belabor, the safety culture issue has at times been controversial. So much so, that back in 2007, when the Commission initiated the process of developing the Safety Culture Policy Statement, many people thought that there were too many stakeholders, with too many different perspectives, to allow for any meaningful agreement or progress. Even as optimistic as I was about this initiative, I did not anticipate the broad spectrum of stakeholders – from nuclear power plant operators to some of their strongest critics – that today actively support the Policy Statement.

That is a tremendous accomplishment. It would not have been possible without the agency's efforts to engage the public and our stakeholders at an early stage, and involve everyone in a way that provides a sense of ownership over the process and its ultimate outcome. It would not have been possible without the willingness of a broad range of stakeholders to actively participate in this process and contribute to a sustained, substantive dialogue about an important safety issue. This dialogue went well beyond the typical notice-and-comment period, and included several Commission meetings, workshops, and other public meetings. Although these efforts took considerable time and effort on the part of both agency staff and stakeholder representatives, we can all take great pride in the final result. It should serve as a model for how we continue our work in this area and how we go about our work in others. Although we cannot expect consensus on all issues, the development of the Safety Culture Policy Statement has demonstrated how an open and transparent process can help bridge differences in order to advance nuclear safety.

Rulemaking

A second effort that I would like to highlight today concerns our ongoing efforts to strengthen our rulemaking process. Throughout my time on the Commission, I have always believed that the agency should try to conduct as much of its policymaking responsibilities through our rulemaking activities, rather than through the widespread use of exemptions or enforcement discretion. The reason for that is simple. By deciding policy questions on the front end, through our rulemaking, we can take full advantage of the openness, transparency, and public participation embedded in that process.

The NRC invests substantial resources in providing opportunities for licensees, stakeholders, and the public to participate in the agency's rulemaking process. I believe that we receive a very high return on that investment when affected parties, interested stakeholders, and members of the public actively participate and meaningfully contribute to the process. By doing so, they help the agency to consider diverse views and different perspectives, work through possible concerns, and definitively resolve policy questions.

Of course, there will be occasions where it is appropriate to revisit rules because new information or additional experience suggest that there are more effective ways to achieve a rule's safety aims than the approach currently on the books. And there also may be occasions

where it is necessary to fine-tune rules through exemptions if the individual circumstances of a licensee warrant one for the sake of safety. But to the greatest extent possible, I believe that significant changes to the agency's rules should be implemented through the agency's existing rulemaking procedures rather than through the widespread use of exemptions or blanket enforcement discretion. Those procedures provide ample flexibility to make adjustments in an open and transparent manner.

As some of you may be aware, we have recently sought to make a change to Part 26's fitness-for-duty requirements for nuclear power plant operators, specifically the requirements dealing with fatigue management. In the case of Part 26, the Commission has sought to implement the change through an expedited, limited-scope rulemaking. This is an opportunity for us to demonstrate that the agency can – despite a near-universal belief that we cannot – conduct a targeted rulemaking with a clearly defined technical basis and clearly established safety need in a few months or less.

Unlike the exemption process or enforcement discretion, this expedited, limited-scope rulemaking includes a public notice-and-comment period. This will enable us to make the needed changes to Part 26 through the same type of open and transparent rulemaking that provided the basis for the original regulation. Furthermore, demonstrating that we can successfully conduct this type of targeted rulemaking will be a sign that the agency can move forward with future rulemakings more efficiently than we have at times in the past. As you may know, the time to conduct rulemakings is often measured in years, not months. That places substantial strains on interested stakeholders and members of public who have limited time and resources to remain engaged throughout such a lengthy process. Successfully completing this expedited rulemaking will be a strong signal to the public that we value their participation in our policymaking process and that we are up to the challenge of addressing the significant policy issues ahead of us.

Japan

At this time, foremost among those issues is the comprehensive safety review that the Commission has launched in response to the tragic events in Japan. The NRC has a responsibility to the American people to undertake a comprehensive review of the safety of our domestic facilities, in light of the natural disaster and the resulting nuclear situation in Japan. While I am confident in the effectiveness of our regulatory framework, I understand that there are others who have significant concerns. I can assure that our safety review will be systematic and methodical, and will be conducted with the appropriate sense of urgency. I expect there will be lessons learned and changes made as a result.

To conduct this review, the Commission has established a senior level task force to help us determine whether there are areas for the agency to make improvements to our regulatory system based on lessons learned from the events in Japan. The task force review will be conducted on a short-term and a longer-term timeframe. The short-term, 90-day review has already begun, and will identify potential or preliminary near-term operational or regulatory issues. A longer-term review will begin as soon as we have sufficient information from Japan, and will be completed in six months from the beginning of the evaluation. During this longer-term review, we expect to be able to engage key stakeholders in a way that the time constraints

of the short-term review has not. Both the 90-day and final reports will be made publicly available.

I understand the urgency that many feel to move quickly on this safety review. It is important, however, that we take the time to fully understand the nuclear situation in Japan, identify the full range of questions that we need to answer, and develop the appropriate responses. I recognize the understandable desire by many to have more information about what has transpired in Japan. If this type of event had occurred in the United States, I want to assure you that the NRC has requirements in place that mandate that the licensee relay information to the NRC and that we would be as forthcoming with that information as possible. This event, however, is not a domestic one and, therefore, there are other considerations that we must be sensitive to in order to continue receiving the information we need to be able to help.

The agency will do its best continue to be as open and transparent as possible. As the task force completes its initial review and the Commission begins decide how to best move forward, I believe it is vital that stakeholders, like Public Citizen, remain actively engaged as we deliberate on these issues. Your perspectives will help us reach the best decisions for nuclear safety. Based on what we learn as part of this review and our dialogue about the issues identified in the review, I am confident we will take the actions necessary to ensure the continuing safety of the American people.

Since it has been a matter of tremendous public interest, I also want to briefly address the NRC's recommendation for U.S citizens in Japan to evacuate out to 50 miles from the Fukushima-Daiichi site. This was not an easy decision given that the information flow from the Fukushima site was often confusing and conflicting. We had no choice other than to make the decision based on the best information available during an evolving event. Although we understood that some of our assumptions were conservative, we believed that it was better to err on the side of protection, especially in the case of a deteriorating situation. I am proud of the staff's work throughout our response to the events in Japan, including in providing me the best available information in order to make this decision. Throughout their work, they have remained steadfastly focused on the safety of the American people, whether they live within a few miles of Washington or across the world in Japan. I can assure you that they will continue to maintain that focus.

Conclusion

While there are certainly other issues I could discuss today, I want to leave ample time for your questions and to hear your thoughts about the agency's work. It is that dialogue that I look forward to most when I have the opportunity to speak at conferences and other events like this one. As I hope I have made clear today, it's also precisely that type of interaction with the public, our licensees, and other stakeholders that the NRC considers vitally important for the development of sound and effective policy. There is no question that the agency has much important work ahead of it related to the events in Japan and other important priorities. But with the expert and experienced staff of the NRC and the meaningful participation of the agency's stakeholders, I am confident that we are up to meeting these challenges and continuing to ensure nuclear safety in this country. Thank you.